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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
09/771,064	01/26/2001	Richard A. Craig	E-1825 CIP	2684	
759	90 08/27/2002				
Intellectual Property Service			EXAM	EXAMINER	
Battelle Memorial Institute Pacific Northwest Division			PALABRICA, RICARDO J		
P.O. Box 999 Richland, WA 99352			ART UNIT	PAPER NUMBER	
, ···			3641		
			DATE MAILED: 08/27/2002	DATE MAILED: 08/27/2002	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary    Examiner		Application No.	Applicant(s)	<i>p</i>
Rick Palabrica   3641		09/771,064	CRAIG ET AL.	,
The MALING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ± MONTH(S) FROM THE MALING DATE OF THIS COMMUNICATION.  THE MALING DATE OF THIS COMMUNICATION.  Exhaustors of time may be available under the proceines of 3 CPR 1.136(a). In so event, however, may a reply be timely filled  ### The period for reply specified above is been han thiny (90) cays, a reply within the statistory minimum of thinty (30) stays will be considered timely.  ### The period for reply specified above is been han thiny (90) cays, a reply within the statistory minimum of thinty (30) stays will be considered timely.  ### The period for reply specified above is been han thiny (90) cays, a reply within the statistory minimum of thinty (30) stays will be considered timely.  ### The period for reply specified above is been han thiny (90) cays, a reply within the statistory minimum of thinty (30) stays will be considered timely.  ### The period for reply specified above is been han thiny (90) cays, a reply within the statistory minimum of thinty (30) stays will be considered timely.  ### The period for reply specified above is been han thinty (90) cays, a reply within the statistory minimum of thinty (30) stays will be considered timely.  ### The period for reply specified to this communication.  ### The period for reply specified to communication (30) caps will be considered timely.  ### The period for reply specified to communication (30) caps will be considered timely.  ### The period considered timely.  ### The period for reply specified to communication (30) caps will be considered timely.  ### The period for reply specified to the period for for election reply to the communication.  ### The period for reply specified to the period for election requirement.  ### The period for reply specified to the period for election requirement.  ### The period for reply specified to the period for election reply to this Office action.	Office Action Summary	Examiner	Art Unit	
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  - Extraction of times may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed  - Extraction of times may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed  - If NO period for reply is appelled above, he maximum elabeletry principle vision in the statutory minimum of theny (00) days will be considered timely.  - If NO period for reply is appelled above, he maximum elabeletry principle vision in the statutory minimum of theny (00) days will be considered timely.  - If NO period for reply is appelled above, he maximum elabeletry principle vision in the principle vision of vision of the principle vision of the principle vision of vision	to the second se	Rick Palabrica	3641	
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1)  Responsive to communication(s) filed on  2a)  This action is FINAL. 2b)  This action is non-final.  3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4)  Claim(s)  1-24 is/are pending in the application.  4a) Of the above claim(s) is/are withdrawn from consideration.  5)  Claim(s)  is/are allowed.  6)  Claim(s)  is/are rejected.  7)  Claim(s)  is/are objected to.  8)  Claim(s)  1-24 are subject to restriction and/or election requirement.  Application Papers  9)  The specification is objected to by the Examiner.  10)  The drawing(s) filed on is/are: all accepted or bl objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  11)  The proposed drawing correction filed on is: all approved by disapproved by the Examiner.  If approved, corrected drawings are required in reply to this Office action.  12)  The oath or declaration is objected to by the Examiner.  Priority under 35 U.S.C. §§ 119 and 120  13)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a)  All bl)  Some *c  None of:  1.  Certified copies of the priority documents have been received.  2.  Certified copies of the priority documents have been received in Application No  3.  Copies of the certified copies of the priority documents have been received in Application No  3.  Copies of the certified copies of the priority documents have been received.  14)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  a)  The translation of the foreign language provisional application has been received.  15)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 120 and/or 121.  Attachments)  Notice of References Cited (PTO-8	A SHORTENED STATUTORY PERIOD FOR REP THE MAILING DATE OF THIS COMMUNICATION  - Extensions of time may be available under the provisions of 37 CFR 1 after SIX (6) MONTHS from the mailing date of this communication.  - If the period for reply specified above is less than thirty (30) days, a re - If NO period for reply specified above, the maximum statutory perion - Failure to reply within the set or extended period for reply will, by statu - Any reply received by the Office later than three months after the mailinearned patent term adjustment. See 37 CFR 1.704(b).	l. 136(a). In no event, however, may a reply within the statutory minimum of thirty d will apply and will expire SIX (6) MON te, cause the application to become AB.	eply be timely filed  (30) days will be considered timely.  THS from the mailing date of this common and the mailing date of this common and the mailing date.	unication.
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## **DETAILED ACTION**

## Election/Restrictions

- 1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - 1. Claims 1-15, drawn to an **apparatus**, classified in class 376, subclass 153.
  - II. Claims 16-24, drawn to a **process**, classified in class 376, subclass 159.

Inventions I and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, the apparatus as claimed can be used to practice another and materially different process such as sensing the presence of another type of material, e.g., a neutron absorbing material.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

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2. <u>Upon election of one of the inventions identified above as I and II</u>, applicant is further required under 35 U.S.C. 121 to elect a single species of the <u>number and type of discriminator setting</u> for purposes of examination. This additional requirement is to facilitate examining due to the diverse discriminator settings disclosed and claimed as being suitable (e.g., see claims 3 and 4).

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- 3. Upon election of one of the inventions identified above as I and II, applicant is further required under 35 U.S.C. 121 to elect one of the following disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 1 is generic to Group I and claim 16 is generic to Group II.
  - A: Wherein the neutron sensor comprises a collimating material (e.g., see claim 6).
  - B: Wherein the neutron sensor comprises a coded-array aperture (e.g., see claim 7).
- 4. <u>Upon election of one of the inventions identified above as I and II</u>, applicant is further required under 35 U.S.C. 121 to elect a single species of the <u>neutron source</u> for purposes of examination. This additional requirement is to facilitate examining due to the wide range of neutron sources disclosed and claimed as being suitable (e.g., see claims 8 and 9).

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- 5. <u>Upon election of one of the inventions identified above as I and II</u>, applicant is further required under 35 U.S.C. 121 to elect a single species of <u>neutron sensor</u> for purposes of examination. This additional requirement is to facilitate examining due to the wide range of neutron sensors disclosed and claimed as being suitable (e.g., see claim 12).
- 6. <u>Upon election of one of the inventions identified above as I and II</u>, applicant is further required under 35 U.S.C. 121 to elect a single species of <u>neutron shield material</u> for purposes of examination. This additional requirement is to facilitate examining due to the wide range of materials disclosed and claimed as being suitable (e.g., see claim 13).
- 7. <u>If invention II is elected</u>, applicant is further required under 35 U.S.C. 121 to elect one of the following disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.
  - C: Wherein the target is a land mine.
  - D: Wherein the target is unexploded ordnance.
  - E: Wherein the target is contraband narcotics.
  - F: Wherein the target is biological tissue.
- 8. Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim

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is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

## Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rick Palabrica whose telephone number is 703-306-5756. The examiner can normally be reached on 8:00-4:30, Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 703-306-4198. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

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for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

RJP August 13, 2002

> MICHEL & C. JUNE SUPERVISORY PATEN EXAMINER